IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.687 OF 2005
IN
NOTICE OF MOTION NO.2227 OF 2004
IN
SUIT NO.2302 OF 2004

Homoeopathic Education Society
and others ... Appellants

versus

Juhu Jagruti ... Respondents

Mr.Shekhar Shetye i/by M/s.B.Amin & Co. for appellants.

Mr.M.M.Vashi i/by M/s.M.P.Vashi & Associates for respondents.

CORAM : DR.S.RADHAKRISHNAN AND
S.C.DHARMADHIKARI, JJ.

DATE : 28th September 2005

PC :

1. Heard learned counsel for the appellant and the respondent. By this appeal the appellant is challenging the order dated 24th June 2005 passed by the learned Single Judge in a Notice of Motion by way of interlocutory order in the pending suit. The case of the appellant is that the defendant is gratuitous licensee. By the said suit the appellant is seeking possession of the

premises of a room admeasuring 200 sq. ft. By the aforesaid Notice of Motion the appellant had sought appointment of Court Receiver and injunction. The learned Single Judge by an order dated 24th June 2005 had granted only injunction and had declined to appoint Court Receiver with regard to the said premises.

2. After having heard both the learned counsel for the parties we find that the respondent has in fact made a donation of Rs.11.00 lakh to the appellant society, as indicated in letter dated 16th January 1985 and they are in continuous possession of the room since 1985 till now. In the year 2002 respondent seems to have demanded premises back from the respondent. Learned counsel for appellant Mr.Shetye states that the Electricity Charges is being paid by the appellant society. Learned counsel for the respondent Mr.Vashi states that the respondent is ready and willing to pay the Electricity Charges and will also pay a reasonable amount by way of compensation without prejudice to the rights and contentions of respondent, who claims to be a tenant.

3. Having regard to the fact that both the

appellant as well as the respondent, are charitable institutions, we feel that in the larger interest of justice, a sum of Rs.5,000/- (Rs.Five thousand only) per month will be a fair amount of compensation, which will be inclusive of the Electricity Charges. Accordingly, we direct the respondent to pay a sum of Rs.5,000/- (Rs.Five thousand only) per month to the appellant inclusive of electricity charges from the month of October 2005 on or before 10th October 2005 and each of the succeeding month the amount of Rs.5,000/- will be paid on or before 10th of that month. It is made clear that the payment of compensation will be without prejudice to the rights and contentions of both sides pending the suit. Hearing of the suit is expedited. Appeal stands disposed of in the above terms.

(DR.S.RADHAKRISHNAN, J.)

(S.C.DHARMADHIKARI, J.)